STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**04/18/01**	Bill No:	**SB 896**
Tax:	**Emergency Telephone Users Surcharge**	Author:	**Poochigian**
Board Position:	**Support**	Related Bills:	**AB 1458 (Kelley)** **AB 1477 (Hertzberg)**

BILL SUMMARY

This bill would revise the Emergency Telephone Users Surcharge Law to conform to the Federal Mobile Telecommunications Sourcing Act (Act) with respect to the taxation of mobile telecommunications services.

ANALYSIS

Current Law

Under existing law, Section 41020 of the Revenue and Taxation Code imposes a surcharge on amounts paid by every person in the state for intrastate telephone communication services in this state.

Section 41011 defines charges for services to mean all charges billed by a service supplier to a service user for intrastate telephone communication services. Intrastate telephone communication services means all local or toll services where the point or points of origin and the point or points of destination of the service are all located in this state and includes monthly service flat-rate charges for usage, message unit charges, and intra-state-wide area telephone service charges. Charges for services, however, do not include charges for intrastate toll calls where bills for such calls originate out of California.

The current surcharge is 0.72 percent of the amounts paid for intrastate telephone services in this state.

The surcharge is paid to the Board and deposited in the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund.

Proposed Law

This bill would amend Section 41020 of the Revenue and Taxation Code to provide that the surcharge does not apply to any charges for mobile telecommunications services billed to a customer where those services are provided, or deemed provided, to a customer whose place of primary use is outside this state. “Place of primary use” would be defined to mean the street address representative of where the customer’s use of the mobile telecommunications service primarily occurs, that must be:

- The residential street address or the primary business street address of the customer.
- Within the licensed service area of the home service provider.

These changes would conform the Emergency Telephone Users Surcharge Law and the Public Utilities Code to the Federal Act to create a single, uniform sourcing rule for the purpose of state and local taxation.

In General

The methodology for applying tax to mobile telecommunication services has become increasingly complex because service users are typically never in the same place. Users of mobile telecommunications services can originate a call in one state or local jurisdiction and travel through another state or local jurisdiction(s) during the course of the call. These circumstances make it difficult to track the separate state and local jurisdiction(s) segments of a particular call. In addition, expanded home calling areas, bundled service offerings and other marketing advances make it increasingly difficult to assign each transaction to a specific taxing jurisdiction.

As a result, state and local taxes are not consistent and subject consumers, businesses and others engaged in interstate commerce to multiple, confusing and burdensome state and local taxes. The result is higher costs to consumers and the industry. In addition, services that are not taxed consistently among jurisdictions can result in some telecommunications revenues inadvertently escaping state and local taxation altogether.

To address this problem, Congress exercised its power to provide a reasonable solution to otherwise insoluble problems of multi-jurisdictional commerce by introducing the Mobile Telecommunications Sourcing Act (HR 4391). The Act included a nexus requirement designed to provide a uniform and fair way to determine how state and local jurisdictions tax wireless communications. On July 28, 2000, President Clinton signed the Act into law.

As the centerpiece and major change in the taxing methodology, the Act assigned all telecommunications taxes on consumers to *one location*: the customer’s Place of Primary Use. The Place of Primary Use provides a single address for state and local taxation for all wireless telecommunications services, including roaming charges from anywhere in the United States. It must be either the customer’s home or business address.

Background

In 1972, Assembly Bill 515 (Chapter 1005) mandated the establishment of a statewide universal emergency telephone number to be used by all public safety and emergency agencies, thereby allowing citizens a single easy-to-remember number to dial for emergency aid regardless of location or the nature of the emergency.

In order to generate funds necessary for subventions to local public agencies to implement the emergency telephone systems, Assembly Bill 416 (Chapter 443, Statutes of 1976) imposed a telephone users tax on every person in the state using intrastate telephone communication services. That tax, the Emergency Telephone Users Surcharge, is imposed on charges made for intrastate telephone communication services and is paid by the service user.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by WorldCom, Inc. and is intended to conform state law to the Federal Act, thereby creating a single, uniform sourcing rule for the purpose of taxing mobile telecommunication services.
2. **Amendments contained in this version of the bill** would conform all other state and local taxes, fees and surcharges imposed on telecommunication services to the Federal Act. These amendments do not impact any Board administered programs.
3. **This measure simply clarifies existing law.** Pursuant to Section 41011 of the Revenue and Taxation Code, charges billed by a service supplier to a service user for intrastate telephone communication services do not include charges for intrastate toll calls where bills for such calls originate out of California. The Board interprets this statute to mean that the surcharge does not apply to intrastate telephone communication services where the bill for such services is sent to an out-of-state location. Accordingly, this measure would simply clarify existing law.
4. **Board staff does not foresee any administrative problems with this measure.** Because the Board currently administers the provisions of this bill, no administrative problems are anticipated.
5. **Double joining language may be necessary.** AB 1458 (Kelley) and AB 1477 (Hertzberg) would also amend Section 41020 of the Revenue and Taxation Code. AB 1458 is a Board-sponsored measure that would change the current method of imposing the 9-1-1 surcharge from a percentage of the charge for intrastate telephone communication service to a flat rate per access line basis.

   AB 1477 would allow every local public agency to establish a nonemergency telephone system within its respective jurisdiction with the digits 3-1-1 being the primary telephone number within the system.

   As this bill progresses, the author may wish to consider adding double joining language to this measure.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

COST ESTIMATE

No additional administrative costs would be associated with this bill.

REVENUE ESTIMATE

Enactment of this measure would not impact revenues derived from the imposition of the Emergency Telephone Users Surcharge.

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